

AMENDED IN ASSEMBLY MAY 9, 2011

CALIFORNIA LEGISLATURE—2011–12 FIRST EXTRAORDINARY SESSION

## ASSEMBLY BILL

No. 10

Introduced by Assembly Member Bonnie Lowenthal

January 4, 2011

An act to add and repeal Section 5023.7 of the Penal Code, relating to prison health care, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 10, as amended, Bonnie Lowenthal. Prison health care: overpayments.

(1) Existing law requires California Prison Health Care Services to provide to the Joint Legislative Budget Committee and the fiscal committees of both houses of the Legislature detailed written reports on actions taken and planned to reduce and better manage medical service contract costs.

This bill would require that ~~money~~ *moneys* recovered *prior to July 1, 2011* from an overpayment of a medical contract expenditure, under the authority of the federal health care receiver, that would otherwise be credited to the fiscal year in which the expenditure was drawn, be ~~immediately~~ augmented to the appropriation for the *2010–11* fiscal year ~~in which the overpayment is received~~, upon approval of the Department of Finance, thereby making an appropriation. ~~The bill would require California Prison Health Care Services to identify, in the cost containment report described above, all overpayments recovered. The bill would be inoperative on July 1, 2011, and repealed on January 1, 2012. The bill would require that moneys recovered on or after July 1, 2011, from an overpayment of a medical contract expenditure, under~~

*the authority of the federal health care receiver, that would otherwise be credited to the fiscal year in which the expenditure was drawn, be immediately augmented to the appropriation for the fiscal year in which the overpayment is received, upon approval of the Department of Finance.*

(2) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 6, 2010, pursuant to the California Constitution.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 5023.7 is added to the Penal Code, to  
2 read:

3 5023.7. (a) Notwithstanding any other provision of law, ~~money~~  
4 ~~moneys~~ recovered prior to July 1, 2011, from an overpayment of  
5 a medical contract expenditure, under the authority of the federal  
6 health care receiver, that would otherwise be credited to the fiscal  
7 year in which the expenditure was drawn, shall be ~~immediately~~  
8 augmented to the appropriation ~~for the fiscal year in which the~~  
9 ~~overpayment is received, upon~~ for the 2010–11 fiscal year, upon  
10 approval of the Department of Finance.

11 ~~(b) The California Prison Health Care Services shall identify,~~  
12 ~~in the cost containment report mandated by Section 7 of Chapter~~  
13 ~~22 of the Statutes of 2009, all overpayments recovered.~~

14 (b) Notwithstanding subdivision (a), moneys recovered on or  
15 after July 1, 2011, from an overpayment of a medical contract  
16 expenditure, under the authority of the federal health care receiver,  
17 that would otherwise be credited to the fiscal year in which the  
18 expenditure was drawn shall be immediately augmented to the  
19 appropriation for the fiscal year in which the overpayment is  
20 received, upon approval of the Department of Finance.

1 (c) The Secretary of the Department of Corrections and  
2 Rehabilitation may adopt regulations to implement this section.  
3 During the existence of the receivership established in United  
4 States District Court for the Northern District of California, Case  
5 No. C01-1351 TEH, Plata v. Schwarzenegger, the adoption,  
6 amendment, or repeal of a regulation authorized by this section is  
7 hereby exempted from the rulemaking provisions of the  
8 Administrative Procedure Act (Chapter 3.5 (commencing with  
9 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
10 Code).

11 ~~(d) This section shall become inoperative on July 1, 2011, and,~~  
12 ~~as of January 1, 2012, is repealed, unless a later enacted statute,~~  
13 ~~that becomes operative on or before January 1, 2012, deletes or~~  
14 ~~extends the dates on which it becomes inoperative and is repealed.~~

15 SEC. 2. This act addresses the fiscal emergency declared by  
16 the Governor by proclamation on December 6, 2010, pursuant to  
17 subdivision (f) of Section 10 of Article IV of the California  
18 Constitution.

19 SEC. 3. This act is an urgency statute necessary for the  
20 immediate preservation of the public peace, health, or safety within  
21 the meaning of Article IV of the Constitution and shall go into  
22 immediate effect. The facts constituting the necessity are:

23 In order to make the necessary statutory changes to implement  
24 provisions for the immediate augmenting of overpaid funds, it is  
25 necessary for this act to take effect immediately.

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